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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION

16 In re iPhone Application Litigation)
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Case No. 11-MD-02250 LHK (PSG)

**OPPOSITION TO MOTION FOR
RECONSIDERATION OF
APPLICATION TO APPOINT
DANIEL E. BECNEL TO THE
STEERING COMMITTEE**

Judge: Hon. Lucy H. Koh

1 Interim Class Counsel, on behalf of the plaintiffs in the consolidated cases, opposes Mr.
2 Becnel's Motion for Reconsideration. Mr. Becnel's Motion should be denied for failing to satisfy
3 the requirements of motions for reconsideration, as well as on the same grounds as put forth at the
4 Case Management Conference with respect to the efficient prosecution of the matter and the best
5 interests of the Class.

6 This Opposition is filed to correct Mr. Becnel's apparent selective effort to muddy the
7 record. Mr. Becnel himself, and no one else, chose not to participate (in-person or telephonically)
8 at the CMC. The prior Order's of the Court served upon Mr. Becnel provided him sufficient
9 guidance as to whether his participation would serve the interests of the Class. Despite his
10 suggestion to the contrary, the record demonstrates his failure to participate was no one's fault but
11 his own. First, at the time the email attached to Mr. Becnel's Motion for Reconsideration (see
12 Becnel Ex. B) was sent, *no challenge to the existing leadership structure was pending. In fact,*
13 *Mr. Becnel had expressly represented to Mr. Kamber at the MDL proceeding that he did not*
14 *desire a leadership position.* Indeed, following the referenced email, Interim Class Counsel spoke
15 to Mr. Moreland, of the Becnel firm, *via* telephone, during which call Mr. Kamber advised Mr.
16 Moreland that members of the Executive Committee (other than Interim Class Counsel and
17 representative from the Liaison Counsel firm) would be participating in the CMC by telephone,
18 and suggested to Mr. Moreland that Mr. Becnel should call him if Mr. Becnel thought attendance
19 would benefit the interests of the Class. At no time did Mr. Kamber discourage Mr. Becnel from
20 participating in the CMC. Rather, he encouraged participation by phone. In fact, Interim Class
21 Counsel was informed on the phone call that Mr. Becnel would attend, as was represented at the
22 hearing.

23 Further, at no time during that call did Mr. Moreland give any indication whatsoever that
24 Mr. Becnel intended to seek a leadership role on the Executive Committee. And, as Mr. Kamber
25 stated at the October 5, 2011 CMC, given that Mr. Becnel had previously represented that he
26 would not seek a leadership role, and that he supported the existing leadership structure, no such
27 application was anticipated from Mr. Becnel. It bears noting that it was not until after Mr.
28 Moreland's email and telephone exchange with Mr. Kamber—and without any consultation with

1 Interim Class Counsel—that Mr. Becnel filed his deficient application for a leadership position.¹

2 Accordingly, the Motion for Reconsideration should be denied.

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4 Dated: October 7, 2011

Respectfully submitted,

5 KAMBERLAW, LLC

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7 By: s/Deborah Kravitz
8 Deborah Kravitz

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25 Interim Class Counsel for Consolidated Plaintiffs
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¹ It should also be noted that Mr. Becnel's plane ticket was purchased two weeks prior to the filing of his Motion, and after that time no one from Mr. Becnel's office made any contact with an Interim Class Counsel, the Liaison Counsel, or the Executive Committee members to discuss his interest in being appointed to a leadership position.